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10/782,645	02/19/2004	Vanadis Mack Crawford	RSW920040012US1	4115
25259	7590	05/29/2009	EXAMINER	
IBM CORPORATION 3039 CORNWALLIS RD. DEPT. T81 / B503, PO BOX 12195 RESEARCH TRIANGLE PARK, NC 27709			MILLER, ALAN S	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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RSWIPLAW@us.ibm.com

Office Action Summary	Application No. 10/782,645	Applicant(s) CRAWFORD ET AL.	
	Examiner ALAN MILLER	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the application filed 2/19/2004.

Claims 9 – 24 are pending and have been examined; claims 17 -24 have been added.

This action is Non-Final.

Response to Arguments

2. Applicant's arguments filed 3/4/2009 in regards to: Kinra not disclosing (1) “customer interest categories”; (2) “supplier metrics”; and (3) that the normalizing as disclosed by Kinra is not the same as averaging the non-zero partial scores, have been fully considered but they are not persuasive.

In response to the argument (1) that Customer Interest Categories is not equal to Criterion, Examiner respectfully disagrees. Applicant's specification does not explicitly define Customer Interest Categories; it merely provides examples. Using broadest reasonable interpretation, Examiner interpreted Customer Interest Categories as criteria most important to a user, or a customer. As disclosed in Kinra, column 1, lines 62 – 65, the user (i.e. the customer) can emphasize which criteria in software products are most important to the user. Examiner notes that a customer is one who purchases and uses a product, and therefore, the criteria are of what interests the customer, i.e. customer interest categories, and therefore Examiner equated criterion with “customer interest categories”.

In response to the argument (2) that Supplier Metrics not equal to Categories, Examiner respectfully disagrees. Applicant's specification does not explicitly define Supplier Metrics; it merely provides examples. Using broadest reasonable interpretation, Examiner interpreted Supplier Metrics as a measure of the supplier against which the user criterion are measured (e.g.

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evaluating each category for criterion), and since the categories supply the weights to the criterion, similar to the "supplier metrics" (see at least column 5, lines 37 – 48, which discloses each category is defined by a group of related evaluation criteria...each category weighting value reflects the relative importance to the category of the functional capacities or features specified in a criterion (i.e. *customer interest category*)), and each category is evaluated for the criterion (i.e. *evaluating supplier metrics for customer interest category*) to get the weighting value (i.e. *to provide numerical values*), Examiner equated Categories to “supplier metrics”.

In further regards to the arguments (1) and (2) regarding ‘Customer Interest Categories’ and ‘Supplier Metrics’, Examiner notes that this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); and that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the labels does not patently distinguish the claimed invention.

In regards to the argument that (3) that normalizing is not the same as averaging the non-zero partial scores, Examiner respectfully disagrees. Applicant broadly claims “wherein the step of determining includes a step of averaging non-zero partial scores”. Average is a broad term that is not explicitly defined by Applicants specification. Using broadest reasonable interpretation, Examiner used the dictionary definition that states that average is a "single value (as a mean, mode, or median) that summarizes or represents the general significance of a set of unequal values **b: MEAN** a: an estimation of or approximation to an arithmetic mean” (see Merriam-Webster, <http://www.merriam-webster.com/dictionary/average>). Examiner further

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notes that what Applicant refers to as 'normalizing' is also known as a weighted mean, which is a type of average (see attached <http://www.statistics.com/resources/glossary/w/wmean.php>, which defines a weighted mean). And further, since this step is done before the final score is determined, Kinra discloses "wherein the step of determining includes a step of averaging non-zero partial scores".

Other arguments raised by Applicant in regards to the independent claims 9 and 13 are addressed in the following Office Action.

Applicant's arguments with respect to claims 10, 11, 14 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims **9 -24** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims **9** and **13** recite the limitation 'a computer program product having a computer readable medium', however, Examiner is unable to find any mention in Applicant's Specification of 'a computer readable medium'. Correction or clarification is required.

Claims **17** and **21** recite the limitation ‘determining...by a processor’, however, Examiner is unable to find any mention in Applicant’s Specification of a ‘processor’, or hardware that might encompass a processor. Correction or clarification is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims **9 - 24** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 9, 13, 17 and 21 recite “evaluating categories, computing partial scores by weighting and summing the numerical values and determining an overall score from the partial scores”, however this is merely an algorithm, and it has been held that if the “acts” of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter; see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 - 72, 175 USPQ 673, 676 (1972); MPEP 2106.02.

Claims **17 – 24** are further rejected under 35 U.S.C.101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *In re Bilski et al*, 88 USPQ 2d 1385 CAFC (2008); *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9

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(1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, in independent claims **17** and **21**, applicant's method steps, evaluating and computing, fail the first prong of the new Federal Circuit decision since they are not tied to a machine and can be performed without the use of a particular machine. Thus, claims 17-24 are non-statutory since they may be performed within the human mind.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims **9-12 and 17 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinra et al. (U.S 5,731,991, hereinafter Kinra).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

9. In respect to claims **9 and 17**, Kinra discloses:

evaluating supplier metrics customer interest categories to provide numerical values for a software product requirement (see at least column 5, lines 37 – 48, which discloses each category (i.e. *supplier metric*) is defined by a group of related evaluation criteria (i.e. *customer interest categories*)...each category (i.e. *supplier metric*) weighting value reflects the relative importance to the category (i.e. *supplier metric*) of the functional capacities or features specified in a criterion (i.e. *customer interest category*). Each category is evaluated for the criterion (i.e. *evaluating supplier metrics for customer interest category*) to get the weighting value (i.e. *to provide numerical values*); see also column 1, lines 64 - 65, which discloses that the system allows the user to emphasize which criteria are most important to the user (i.e. *customer*). Since the user (i.e. *the customer*) defines the criterion (i.e. *categories*) that are most important to the user (i.e. *the customer*), the criteria relate to an interest of the customer (i.e. *customer interest categories*));

computing partial scores for the customer interest categories by weighting and summing the numerical values; and (see at least column 4, lines 33-68, wherein Kinra discloses weighing each criterion (i.e. *customer interest categories*) and summing the values to produce a raw criterion score (i.e. *computing partial scores for the customer interest categories by weighting and summing the numerical values*). Examiner notes that since for each criterion a partial score is computed by weighing and summing numerical values, a partial score is generated for each criterion (i.e. *customer interest categories*); therefore, it computes partial scores for the criterion (i.e. *customer interest categories*) by weighting and summing the numerical values);

determining an overall score for the software product requirement from the partial scores(see at least column 9, lines 6-13, wherein Kinra discloses determining a total score for each product (i.e. *software product requirement*). Examiner notes that the overall score is determined using the previously found partial scores (i.e. *from the partial scores*)).

Kinra does not explicitly disclose the labels “supplier metrics” and “customer interest categories”. However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

10. In respect to claims **10 and 18**, Kinra discloses exemplary criterion (*i.e. customer interest categories*) that include ease of use (*i.e. usability*), application interoperability (*i.e. interoperability*), automated testing, and application partitioning (*i.e. capability*), application specifications, physical data definition, prototyping and simulation, and normalized category score (see at least column 4, lines 1-4 and FIG 2, 112).

Kinra does not explicitly disclose the labels performance, reliability, maintainability, documentation, and serviceability.

However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels to describe the criterion, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patently distinguish the claimed invention.

11. In respect to claims **11 and 19**, Kinra discloses evaluation categories (*i.e. supplier metrics*) integration, construction, reuse, business issues, development, operations, architecture, design, analysis, planning, etc (FIG. 2, 60, 62, 64, 66, 68, column 7, lines 30-47).

Kinra does not explicitly disclose the labels market penetration, priority as determined by a customer, revenue potential, and state of technology advancement.

However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels to describe the categories, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

12. In respect to claims **12 and 20**, Kinra discloses wherein the step of determining includes a step of averaging non-zero partial scores (see at least column 4, lines 40-68, wherein Kinra discloses a normalized score calculated by dividing the raw score by the sum of the associated criterion weighting values (*i.e. averaging non-zero partial scores*)). Examiner notes that the normalizing done by Kinra is a weighted mean, which is type of average (see <http://www.statistics.com/resources/glossary/w/wmean.php> and <http://www.merriam-webster.com/dictionary/average>) .

13. Claims **13-16 and 21 - 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinra et al. (U.S 5,731,991, hereinafter Kinra) in view of Wolfram MathWorld

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(<http://mathworld.wolfram.com>, <http://mathworld.wolfram.com/MatrixTrace.html> and <http://mathworld.wolfram.com/Matrix.html> , copyright 1999-2008, hereinafter Wolfram MathWorld).

14. In respect to claims **13 and 21**, Kinra discloses:

evaluating supplier metrics customer interest categories to provide numerical values for a software product requirement (see at least column 5, lines 37 – 48, which discloses each category (i.e. *supplier metric*) is defined by a group of related evaluation criteria (i.e. *customer interest categories*)...each category (i.e. *supplier metric*) weighting value reflects the relative importance to the category (i.e. *supplier metric*) of the functional capacities or features specified in a criterion (i.e. *customer interest category*). Each category is evaluated for the criterion (i.e. *evaluating supplier metrics for customer interest category*) to get the weighting value (i.e. *to provide numerical values*); see also column 1, lines 64 - 65, which discloses that the system allows the user to emphasize which criteria are most important to the user (i.e. *customer*). Since the user (i.e. *the customer*) defines the criterion (i.e. *categories*) that are most important to the user (i.e. *the customer*), the criteria relate to an interest of the customer (i.e. *customer interest categories*));

computing partial scores for the customer interest categories by weighting and summing the numerical values; and (see at least column 4, lines 33-68, wherein Kinra discloses weighing each criterion (i.e. *customer interest categories*) and summing the values to produce a raw criterion score (i.e. *computing partial scores for the customer interest categories by weighting and summing the numerical values*). Examiner notes that since for each criterion a partial score

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is computed by weighing and summing numerical values, a partial score is generated for each criterion (i.e. *customer interest categories*); therefore, it computes partial scores for the criterion (i.e. *customer interest categories*) by weighting and summing the numerical values);

determining an overall score for the software product requirement from the partial scores(see at least column 9, lines 6-13, wherein Kinra discloses determining a total score for each product (i.e. *software product requirement*). Examiner notes that the overall score is determined using the previously found partial scores (i.e. *from the partial scores*)).

Kinra does not explicitly disclose the labels “supplier metrics” and “customer interest categories”. However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of labels does not patently distinguish the claimed invention.

Kinra does not explicitly disclose the technique of forming an N by M matrix A, multiplying by an M by N matrix W, or determining the overall score from the diagonal elements of P .

Wolfram MathWorld discloses that matrix creation, the multiplication of two matrices and the trace of a square product matrix (i.e. *determining the overall score from the diagonal elements of P*) are old and well known.

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the technique of calculating the scores in Kinra with the old and well known equivalent technique of creating matrices and the multiplication of two matrices and the trace of a square product matrix since claims are combinations that merely unite old elements with no change in their respective functions, and which yield predictable results of arriving at the same results, since neither applicant's specification nor his arguments present any evidence that modifications necessary to effect combinations are uniquely challenging or difficult for person of ordinary skill in art, and since claimed improvement is no more than simple substitution of one known element for another, or mere application of known technique to piece of prior art ready for improvement (*Ex parte Smith*, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)). Further, it has been held that express suggestion to substitute one equivalent technique for another need not be present to render such substitution obvious (*In re Fout*, 213 USPQ 532 (CCPA 1982), *In re Siebentritt*, 152 USPQ 618 (CCPA 1967)).

15. In respect to claims **14 and 22**, Kinra discloses exemplary criterion (i.e. *customer interest categories*) that include ease of use (i.e. *usability*), application interoperability (i.e. *interoperability*), automated testing, and application partitioning (i.e. *capability*), application specifications, physical data definition, prototyping and simulation, and normalized category score (see at least column 4, lines 1-4 and FIG 2, 112).

Kinra does not explicitly disclose the labels performance, reliability, maintainability, documentation, and serviceability.

However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels to describe the criterion, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

16. In respect to claims **15 and 23**, Kinra discloses evaluation categories (*i.e. supplier metrics*) integration, construction, reuse, business issues, development, operations, architecture, design, analysis, planning, etc (FIG. 2, 60, 62, 64, 66, 68, column 7, lines 30-47).

Kinra does not explicitly disclose the labels market penetration, priority as determined by a customer, revenue potential, and state of technology advancement.

However these differences are only found in the nonfunctional material and are not functionally involved in the steps recited. The evaluating, computing and determining steps would be performed regardless of the data, e.g. labels. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *in re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use any labels to describe the categories, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patently distinguish the claimed invention.

17. In respect to claims **16 and 24**, , Kinra discloses wherein the step of determining includes a step of averaging non-zero partial scores (see at least column 4, lines 40-68, wherein Kinra discloses a normalized score calculated by dividing the raw score by the sum of the associated criterion weighting values (*i.e. averaging non-zero partial scores*)). Examiner notes that the normalizing done by Kinra is a weighted mean, which is type of average (see <http://www.statistics.com/resources/glossary/w/wmean.php> and <http://www.merriam-webster.com/dictionary/average>).

However, Kinra does not explicitly disclose averaging the non-zero diagonal elements of P.

Examiner notes that the diagonal elements of the matrix P contain the same scores calculated by the invention of Kinra (e.g. the trace of a square matrix).

Wolfram MathWorld discloses that a trace of a square matrix (*i.e. diagonal elements of P*) is old and well known (see Matrix-Trace from Wolfram MathWorld).

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the technique of calculating the scores and then taking the average of the scores in Kinra with the old and well known equivalent technique of computing the trace of a square product matrix and then taking the average since claims are combinations that merely unite old

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elements with no change in their respective functions, and which yield predictable results of arriving at the same results, since neither applicant's specification nor his arguments present any evidence that modifications necessary to effect combinations are uniquely challenging or difficult for person of ordinary skill in art, and since claimed improvement is no more than simple substitution of one known element for another, or mere application of known technique to piece of prior art ready for improvement (*Ex parte Smith*, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)). Further, it has been held that express suggestion to substitute one equivalent technique for another need not be present to render such substitution obvious (*In re Fout*, 213 USPQ 532 (CCPA 1982), *In re Siebentritt*, 152 USPQ 618 (CCPA 1967)).

Conclusion

18. The prior art made of record and not relied upon considered pertinent to Applicant's disclosure.

- a. Statistics.com (<http://www.statistics.com/resources/glossary/w/wmean.php>) which discloses a definition of a weighted mean.
- b. Merriam-Webster (<http://www.merriam-webster.com/dictionary/average>) which discloses a definition of average.
- c. Nakano et al. (U.S. Patent Pub. 2002/0184082) discloses a customer satisfaction evaluation method.
- d. Lee (U.S. Patent 5,765,137) discloses correlating product requirements to manufacturing cost.

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e. Zelek et al. (U.S. Patent Pub. 2003/0040954) discloses a method and system for product optimization.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN MILLER whose telephone number is (571)270-5288.

The examiner can normally be reached on Mon - Fri, 10:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRADLEY BAYAT can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. M./

Examiner, Art Unit 3624

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3624